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HUMAN RIGHTS COMMITTEE
Seventieth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

Trinidad and Tobago

1. The Committee considered the joint third and fourth periodic reports of Trinidad and Tobago (CCPR/C/TTO/99/3) at its 1870th and 1871st meetings (CCPR/C/SR.1870 and 1871), held on 17 October 2000, and adopted its concluding observations and recommendations at its 1891st meeting (CCPR/C/SR.1891), on 31 October.

A. Introduction

2. The Committee regrets the delay in submission of these reports, but welcomes the information set out in the report and the accompanying material. Supplementary written answers were received in time for them to be considered by the Committee.

B. Positive aspects

3. The Committee welcomes the setting up, in the Ministry of the Attorney-General and Legal Affairs, of a Human Rights Unit, its activities in clearing the backlog in reporting under the Covenant and the human rights treaties, and its other initiatives to improve the protection for human rights.

4. The Committee commends improvements to the remedies provided in cases of domestic violence, together with specialized personnel now available to assist victims, including the Domestic Violence Unit set up by the Ministry of Culture and Gender Affairs.

5. The Committee takes note with satisfaction of the institution of the independent Police Complaints Authority and looks forward to rapid proclamation of the Act extending its powers.

6. The extension of legal aid, both in terms of geographical distribution and of the tribunals before which it is available, as well as the raising of fees so as to attract higher quality advocates increase compliance with article 14.3 (d).

C. Concerns and recommendations

7. The Committee places on record its profound regret at the denunciation of the Optional Protocol. In the light of the continued existence of the death penalty, and despite assurances by the delegation that proposals to extend the death penalty have been rejected, it recommends that:

(a) In relation to all persons accused of capital offences, the State party should ensure that every requirement of article 6 is strictly complied with;

(b) In the event of a reclassification of murder being brought into effect for persons tried and convicted thereafter, those already convicted of murder should be entitled to similar reclassification, in accordance with article 15.1; and

(c) The assistance of counsel should be ensured, through legal aid as necessary, immediately on arrest and throughout all subsequent proceedings to persons accused of serious crimes, in particular in cases of offences carrying the death penalty.

8. Upon ratifying the Covenant, the State party accepted obligations under articles 2.1 and 2.2 to ensure that all individuals subject to its jurisdiction should enjoy Covenant rights and, insofar as they are not already in place, to take the necessary steps to adopt measures to give effect to those rights.

The State party may not rely on limitations in its Constitution as grounds for non-compliance with the Covenant but should put in place the necessary laws to achieve such compliance.

9. The Committee is concerned that a thorough review of domestic law, to ensure compliance with the Covenant norms, has not yet been completed.

The State party should, for example, align the limitations imposed by article 4 of the Covenant with domestic measures to be taken in cases of public emergency, so as to:

(a) Comply with the categorization of an emergency as a threat to the "life of the nation";

(b) Respect the prohibition on derogation contained in article 4.2; the State party should establish that measures permitted under emergency powers are so compatible;

(c) Ensure that any derogations from the State party's obligations under the Covenant do not exceed those strictly required by the exigencies of the situation.

10. The Committee is concerned at the lack of remedies under domestic legislation, including the Constitution, for victims of discrimination within the full ambit of articles 2.3 and 26 of the Covenant.

The State party should ensure that remedies are available for the full range of discriminatory situations falling within the protection given by those articles, and should include in its next report information on the extent to which this has been achieved.

11. The Committee urges that priority be given to all necessary preparations, so as to bring into force by proclamation at the earliest possible date the Equal Opportunities Act 2000 particularly in respect to the advancement of women.

The State party should, thereafter, introduce amending legislation to extend the provisions of the Act to those suffering discrimination on grounds of age, sexual orientation, pregnancy or infection with HIV/AIDS.

12. In relation to sexual harassment in the workplace, the Committee notes the judicial decision in Bank Employees' Union v. Republic Banks Ltd, Trade Dispute 17 of 1995, where it was held that a person had been properly dismissed from his employment where his conduct, on the facts of the case, was properly classified as sexual harassment.

The adequacy of judicial remedy should be kept under review and legislation passed if necessary.

13. The Committee is disturbed to learn that apart from prohibiting corporal punishment for persons under 18 years of age, the State party is still practising the punishments of flogging and whipping which are cruel and inhuman punishments prohibited by article 7.

Sentences of flogging or whipping should immediately be abolished.

14. The Committee regrets that problems relating to the police force (such as corruption, brutality, abuse of power and obstacles placed in the way of police personnel who seek to correct such practices) identified over the last decade, have still not been rectified. It is concerned that there is little reduction in the numbers of complaints of harassment and battery submitted in 1999 and 2000.

The Plan of Action now in preparation should reinforce reforms already made and ensure that the culture of the force genuinely becomes one of public service; dereliction of duty, harassment and battery (among other things) by police officers should be the subject of swift disciplinary or criminal proceedings (arts. 2.1, 2.2. and 7).

15. The Committee supports the expressed concern of the Trinidad and Tobago Police Complaints Authority about the inadequacy of reports from the Police Complaints Division and failure of that Division adequately to report on continuing complaints in important categories.

The Complaints Division should improve the contents of its reports and accelerate its reporting process so as to enable the Police Complaints Authority thoroughly to fulfil its statutory functions and so that violations of articles 7 and 9.1 may be properly investigated.

16. The Committee is concerned about chapter 15.01 of the Police Act which enables any policemen to arrest persons without a warrant in a large number of circumstances. Such a vague formulation of the circumstances in the Act gives too generous an opportunity to the police to exercise this power.

The Committee recommends that the State party confine its legislation so as to bring it into conformity with article 9.1 of the Covenant.

17. The Committee expresses its concern over prison conditions; whilst accepting that the opening of and phased introduction of prisoners into the new maximum security prison will, together with the impact of non-custodial sentences reduce the population held in out-dated establishments, the conditions in these establishments are incompatible with article 10.

The new publication and implementation of the new commission's report on giving effect to the Standard Minimum Rules for the Treatment of Prisoners should be given priority.

18. The Committee recommends that legal limitations on abortion be reappraised and that restrictions which may risk violation of women's rights be removed from the law, by legislation if necessary (arts. 3, 6.1 and 7).

19. The Committee is concerned that the existing laws on defamation could be used to restrict criticism of the Government or public officials.

The State party should proceed with its proposals to reform the law of defamation, ensuring a due balance between protection of reputation and freedom of expression (art. 19).

20. The Committee has long awaited information on follow-up of its views as pressed in response to communications.

Complete replies should be given as to the grant of remedies as recommended by the Committee, in full compliance with article 4.2 of the Optional Protocol.

21. The Committee requests the State party to submit the fifth periodic report by 31 October 2003. It requests that the present concluding observations and the next periodic report be widely disseminated among the public, including civil society and non-governmental organizations operating in the State party.